

## **REMARKS**

In response to the Office Action mailed January 9, 2007, Applicants respectfully request reconsideration. To further the prosecution of this application, each of the issues raised in the Office Action is addressed herein. Applicants also incorporate by reference herein all remarks made in Applicants' reply dated June 26, 2006.

Claims 1-20, 22-37, 39-64, 66-98 and 100-117 are pending in this application, of which claims 1, 15, 28, 36, 64, 70, 78, 80, 98, 104 and 112 are independent claims. In this response, Applicants have amended claims 1, 67 and 80 solely to expedite prosecution towards allowance. Applicants do not believe that the amendments to claims 1 and 80 are necessary to overcome the standing rejections of these claims, as discussed further below, but have nonetheless amended these claims solely to facilitate allowance of the application. No new matter is added.

### **A. Allowed Claims**

Applicants wish to thank the Examiner for allowing claims 15-20, 22-37, 39-43, 64, 70, 78, 98, 104, 112 and 114-117 (including independent claims 15, 28, 36, 64, 70, 78, 98, 104 and 112).

### **B. Claim Rejections under 35 U.S.C. §102**

Claims 1-4, 8, 9, 13, 44-62, 66-68, 71, 74-76, 79 and 80 (including independent claims 1 and 80) were rejected under 35 U.S.C. §102(b) as allegedly being anticipated by Havel (U.S. Patent No. 4,810,937).

In Applicants' reply dated June 26, 2006, Applicants traversed these rejections as they pertained to the claims prior to the amendments herein, and maintain that the claims as pending prior to the amendments herein are patentable for at least the reasons set forth in the July 26, 2006 reply.

Claim 1 formerly recited "at least one sensor configured to measure at least one of the composite radiation produced by the apparatus and the sample radiation generated by the predetermined light source." Claim 80 formerly recited "measuring at least one of the composite radiation and the sample radiation generated by the predetermined light source." Applicants

previously pointed out that: 1) there is no teaching or suggestion in Havel regarding any measurement of sample radiation generated by a predetermined light source; and 2) it is clearly impossible in Havel to measure “composite radiation produced by the apparatus.”

More specifically, in Havel, multiple different color light sources are each paired with their own dedicated sensor. Havel specifically discloses that while a first portion of light generated by each different color light source is blended to provide a composite light signal, a second portion of the light generated by each light source is directed onto a corresponding light sensor. Havel’s light sensors are completely isolated from each other; each light sensor in Havel receives light from only one of the light sources that contributes to the composite light signal, such that there is a one-to-one correspondence between light source and sensor. There is no sensor in Havel that detects, monitors, senses or otherwise measures the composite light signal itself.

On page 22 of the present Office Action, the Examiner contends that it is the combination of sensors 36a-36c shown in Havel’s Fig. 6 which allegedly meet the claim limitation of measuring the composite radiation produced by the apparatus. Applicants respectfully disagree. Even taken in combination, these sensors 36a-36c absolutely do not measure composite radiation. With reference to Fig. 6, Havel makes perfectly clear that a composite light signal is emitted at the top 39 of the device, after the respective primary colors are blended by scattering material 38 (col. 6, lines 14-19). There is nothing in Havel that measures this composite light signal.

Again, each sensor in Havel only is capable of measuring one primary color, and the sensor’s resistance changes based on the measurement of one and only one color. Nowhere in the reference does Havel teach or suggest that respective sensor outputs are combined in any manner. In fact, Havel explicitly teaches away from this, and instead emphasizes that it is desirable to provide separate optical stabilizing feedbacks (col. 1, lines 44-45). Figs. 3 and 4 of Havel underscore this premise, and illustrate exemplary electrical schematics in which a change in resistance of each sensor, in response to light generated by its corresponding light source, is used only to control the current to that same light source (col. 3, lines 27-59). Accordingly, from both an optical and electrical standpoint, each sensor disclosed in Havel is completely isolated from other sensors and dedicated to one and only one light source. Even taking these sensors in combination, there is no absolutely no measurement whatsoever of composite radiation.

Notwithstanding the foregoing, Applicants have made clarifying amendments to independent claims 1 and 80 in an effort to facilitate allowance. In particular, claim 1 as amended recites “a single sensor configured to measure...both of the first radiation and the second radiation produced by the apparatus.” Claim 80 as amended similarly recites “measuring both of the first radiation and the second radiation via a single sensor.” Havel clearly fails to disclose or suggest these features. Accordingly, the rejections of claims 1 and 80 as allegedly being anticipated by Havel should be withdrawn. All claims dependent on claims 1 and 80 are patentable based at least upon their dependency.

Applicants respectfully reserve the right to file one or more applications related to the subject matter of the claims prior to the amendments herein.

C. Claim Rejections under 35 U.S.C. §103

In item 7 on page 11 of the present Office Action, claims 5-7, 10-12, 63 and 77 were rejected under 35 U.S.C. 103(a) as allegedly being obvious over Havel. In item 12 on page 13, claims 72 and 73 were rejected under 35 U.S.C. 103(a) as allegedly being obvious over Havel in view of McDermott (U.S. Patent No. 4,677,533). In item 16 on page 15, claims 81-96, 100-103, 105 and 108-110 were rejected under 35 U.S.C. 103(a) as allegedly being obvious over Havel. In item 19 on page 17, claim 97 was rejected under 35 U.S.C. 103(a) as allegedly being obvious over Havel. In item 22 on page 17, claims 106 and 107 were rejected under 35 U.S.C. 103(a) as allegedly being obvious over Havel in view of McDermott. Applicants respectfully submit that these rejections are improper. In any case, each of these rejections is believed to be moot, as the indicated claims depend from allowable base claims.

## CONCLUSION

It is respectfully believed that all of the pending claims have been addressed. However, the absence of a reply to a specific rejection, issue or comment set forth in the Office Action does not signify agreement with or concession of that rejection, issue or comment. In addition, because the arguments made above may not be exhaustive, there may be reasons for patentability of any or all pending claims (or other claims) that have not been expressed. Furthermore, nothing in this paper should be construed as an intent to concede any issue with regard to any claim, except as specifically stated in this paper, and the amendment of any claim does not necessarily signify any concession of unpatentability of the claim prior to its amendment.

In view of the foregoing amendments and remarks, this application should now be in condition for allowance. A notice to this effect is respectfully requested. If the Examiner believes, after this amendment, that the application is not in condition for allowance, the Examiner is requested to call the Applicants' representative at the telephone number indicated below to discuss any outstanding issues relating to the allowability of the application.

If this response is not considered timely filed and if a request for an extension of time is otherwise absent, Applicants hereby request any necessary extension of time. If there is a fee occasioned by this response, including an extension fee, please charge any deficiency to Deposit Account No. 23/2825.

Respectfully submitted,

Dated: April 6, 2007

By: /Joseph Teja, Jr./  
Joseph Teja, Jr., Reg. No. 45,157  
WOLF, GREENFIELD & SACKS, P.C.  
Federal Reserve Plaza  
600 Atlantic Avenue  
Boston, Massachusetts 02210-2206